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CONGRESSIONAL BUDGET REFORM: WILL IT WORK?

Congress in 1974 has demonstrated that it at least knows what it should do to break its spending habits of the past. But rhetoric about reasserting congressional budgetary powers notwithstanding, neither Congress nor its critics are confident of its ability—much less its will—to really do its budget-making job.

Amid much self-congratulatory talk about reform, Congress in June cleared legislation (HR 7130—PL 93-344) that could give the legislative branch the final say on how much the federal government spends for what purposes. By passing that one piece of legislation, some members seemed to claim, Congress would put an end to years of presidential domination of federal budget decisions.

Yet, as one retired federal budget official pointed out, "the only question is, will it work?" And whether it works will depend on how serious Congress really is about ending inflation, and whether individual members and separate congressional committees are willing to sacrifice political and jurisdictional interests for the sake of more reasoned fiscal policy.

"To make it work," observed Samuel M. Cohn, a former assistant director of the Office of Management and Budget (OMB), "Congress and its individual members will have to act a hell of a lot differently than they do now."

Even assuming that Congress finds the resolve to change its ways, much work remains to be done, both in hiring a staff to analyze budget options and in educating members in the complexities of budget figures.

"We have a task that might be impossible," Sen. Walter F. Mondale (D Minn.) warned his colleagues on the newly formed Senate Budget Committee Aug. 22, "but if we don't try, we'll all be condemned." (*Appointment of budget committees, Weekly Report p. 2163, 2041; budget reform measure, Weekly Report p. 1601, 1590, 1973 Almanac p. 243; background on budget procedures, CQ Guide to Congress, p. 175-195*)

Budget Framework

On paper, at least, the budget reform measure established an institutional and procedural framework that would enable Congress to give more orderly and informed scrutiny to each fiscal year's federal budget.

"The idea is a great idea," Cohn said. "For the first time, if it works, we'll be able to see that Congress has to reconcile its action on the totals with its action on the pieces."

Under its existing procedures, Congress never really looks at budget totals—for spending and tax revenues—contenting itself instead with piece-by-piece action on the President's requests for authority to spend the government's money.

As a remedy, the budget reform measure has created new House and Senate committees—aided by a staff of budget experts—to focus congressional attention on the totals, and how action on the pieces would affect the budget.

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—Samuel M. Cohn, former assistant director, Office of Management and Budget

When fully implemented, the new law will require Congress to examine the totals, setting itself target figures through a budget resolution, before acting on the pieces through authorization and appropriations bills. Once the customary appropriations process was completed, moreover, Congress would have to review both the target totals and the pieces, reconciling any discrepancies.

There are other provisions promising major changes in the way Congress does business. One will give the House and Senate Appropriations Committees a chance to review new backdoor spending programs (legislation that bypasses the regular appropriations process, such as veterans benefits) that create obligations that Congress later must meet by making the required appropriations.

Another major innovation would spell out procedures by which the President could impound funds merely to defer their expenditure but be required to ask Congress to rescind its earlier appropriations if he intended never to spend the money at all.

To fit the expanded budget-making procedures into the annual congressional sessions, the measure will shift the start of the fiscal year back to Oct. 1 from July 1—starting with fiscal 1977 on Oct. 1, 1976—and set forth a detailed timetable for completing congressional action on the necessary legislation before that date. (*Details of budget reform procedures, Weekly Report p. 1590*)

Using the Framework

As the principal authors of the budget reform measure readily agree, the new budgetary framework will work only if Congress wants to use it.

"To make this design work is going to be just as onerous, perhaps more onerous and more difficult, than coming up with the design," Rep. Richard Bolling (D Mo.), who helped devise the framework in the House Rules Committee and in conference, warned as the House adopted the conference report on HR 7130.

To put the design to effective use, Congress will have to overcome a lack of budgetary expertise, some committee jurisdictional jealousies, the temptation to waive budget making deadlines and, occasionally at least, the personal political interests of 100 senators and 435 House members

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With such formidable forces likely to resist budget-making changes, Congress "will quickly find ways to warp and bend the reform rules laid down here...," predicted Rep. H.R. Gross (R. Iowa), a long-time critic of congressional spending habits who is retiring from the House after 1974.

While less pessimistic, Sen. Edmund S. Muskie (D. Maine), the recently designated chairman of the Senate Budget Committee, nonetheless acknowledged that "it may take two or three years before we get these procedures operating smoothly."

Timetable Waivers

To encourage orderly consideration of the budget, the budget reform measure set a rather detailed timetable for completing action on the target-setting budget resolutions, authorization measures, appropriations bills and the budget reconciliation process.

But although that timetable actually was printed out in the law, Congress took care to leave itself the flexibility to ignore the deadlines established by the legislation.

Muskie, who helped draw up the budget reform bill as a member of the Senate Government Operations Committee, said that the specific timetable was intended to supply the discipline that Congress needs to follow in making its budgetary decisions.

If First You Don't Succeed...

In reforming its budget procedures, Congress will be undertaking a task that it tried and abandoned nearly 25 years ago.

In three years of trying, the House and Senate never got together to fully implement a legislative budget created by the Legislative Reorganization Act of 1946 (PL 79-601). After unsuccessful attempts in 1947, 1948 and 1949, Congress abandoned the experiment as an unqualified failure.

Similar in some respects to the reform procedures adopted by Congress in 1974, the 1946 act required that Congress set by concurrent resolution a maximum amount to be appropriated for each fiscal year.

That appropriations ceiling was part of a legislative budget based on revenue and spending estimates prepared by a massive Joint Budget Committee composed of all members of the House and Senate Appropriations Committees and of the tax-writing House Ways and Means and Senate Finance Committees.

In 1947, conferees failed to agree on Senate amendments to the budget resolution providing for use of an expected federal surplus for tax reductions and fast retirement.

In 1948, Congress appropriated \$6-billion more than its own legislative budget ceiling, and in 1949 the legislative budget never was produced as the process broke down completely.

After failure of the legislative budget, Congress in 1950 experimented with an omnibus appropriations bill lumping all appropriations requests in a single measure. The project produced a \$2.3-billion cut in the President's requests and speedier action on the budget, but was abandoned in 1951. (*Background, CQ Guide to Congress*, p. 190-191)

"That discipline is in the statutory timetable," Muskie said, "but whether or not we'll operate within the timetable, we'll have to see."

In its final form, the budget reform bill provided specific waivers at several points along the budget process. Using those waivers, Congress could choose to ignore certain deadlines or to allow consideration of some spending bills before the time allowed.

As enacted, for instance, the bill required congressional committees to report authorizing legislation by May 15 of each year, more than four months before the start of the fiscal year on Oct. 1. That deadline could be waived, however, by majority votes in both houses.

Similarly, the bill forbids floor consideration of spending or tax measures before May 15, the deadline for final action on the budget resolution setting targets for appropriations, outlays and revenues. In the Senate, however, that prohibition could be waived by majority vote.

At the end of the budget-making process, the bill requires that all appropriations bills be cleared by the middle of September—no later than the seventh day after Labor Day—so that the budget reconciliation process can be completed before the fiscal year begins on Oct. 1. Again, that deadline for final action could be waived for any appropriation bill if its consideration had been delayed because Congress had not acted promptly on legislation needed to authorize programs.

Even without those waivers written into the bill, the House and the Senate through their normal operating procedures could decide to bypass the budget timetable's requirements. In the House, for example, the Rules Committee can recommend for any legislation waivers of points of order against floor action that would violate House rules.

And in the Senate, Muskie pointed out, "most of the time we operate under unanimous consent agreements that suspend the rules."

Even if the bill did not provide for waiving deadlines, Muskie noted, "the Senate still has that right at any time." While recognizing that possibility, he added, the authors of the bill thought it was "better to write in points of responsibility. Whether we've picked the right points only experience will tell us."

With the waiver provisions part of the statutory budget-making procedures, "if a committee applies for a waiver, the budget bill will still be operating," a Senate aide noted. If normal unanimous consent agreements were used to suspend those rules, on the other hand, the Senate in effect would be setting the budget bill's requirements aside.

As the most enthusiastic budget reform advocates admit, Congress probably will miss some deadlines, at least as it gets used to the budget reform bill's requirements.

"The deadlines are going to be awfully difficult to meet, especially the authorization reporting deadline," said Rep. Elford A. Cederberg (R. Mich.), the top-ranking Republican on the House Appropriations Committee and a minority member of the House Budget Committee. "I think there's going to be some slippage."

Even if the earlier deadlines were missed, "the only really important date is the conclusion date," before the fiscal year begins, Bolling told Congressional Quarterly.

But in Muskie's view, whether the whole process works will depend on how closely individual members and separate committees are willing to discipline their actions to the budget timetable. "If they ask for an extension here and an extension there, we could end up with the whole timetable collapsing," he said.

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Staff Requirements

In organizing themselves for the task ahead, the House and Senate Budget Committees assigned a high priority to hiring a staff of budget experts to help them devour the massive budget documents sent to Capitol Hill each year by the Office of Management and Budget (OMB).

While both committees by the August congressional recess had picked men to head their own separate staffs, the key appointment clearly would be a director to head the Congressional Budget Office, a joint staff created by the budget reform bill to give Congress the budget analysis capability it previously lacked.

No announcement had been made, but the Budget Committees and congressional leaders reportedly were looking for a well-known and experienced budget expert, such as Kermit Gordon or Charles L. Schultze, who both served as Bureau of the Budget director under President Johnson.

"There is some merit to having a well-known name," Muskie said. "He would bring some prestige to the office, as well as knowledge of the budget process."

While Muskie contended that the budget office director must be nonpartisan, whoever fills the post undoubtedly will need political skills if his staff is to perform its function effectively.

The congressional budget director "has got to deal with both Congress and the executive departments," one House staff member noted. "He can be a competent technician, but if he doesn't have political sense, he won't be very effective."

"The first guy will set the imprint of the office," he added. "There's the potential for him to be influential, but we'll have to see how the actual relationships shake out between him and the Budget Committees."

Without a strong director, the aide suggested, the Congressional Budget Office "could become a Library of Congress type of operation with mostly educational responsibilities, with the center of power in the two committees."

In Cohn's view, "if they get the right kind of people for that staff, and if the Budget Committee chairmen pay attention to them, then this thing just might work."

"They need people like Larry Woodworth," Cohn said. [Lawrence N. Woodworth, staff director of the Joint Committee on Internal Revenue Taxation, provides advice to the House Ways and Means and Senate Finance Committees on tax legislation.] "And they need chairmen who will pay attention to them the way [Ways and Means Committee Chairman] Wilbur Mills pays attention to Woodworth."

In an Aug. 26 organizational session devoted to staffing matters, members of the Senate Budget Committee made clear that they realized their need for expert help. "We've got to be educated, from the ground up," admitted Sen. Frank E. Moss (D Utah) as the committee discussed how to make its case for adequate staff assistance to the Senate Rules and Administration Committee.

During the committee's initial hearings on proposals to cut the fiscal 1975 federal budget, "to be very frank about it, I'm unprepared" to ask probing questions on budget issues, said Mondale. (*Budget hearings, Weekly Report p. 2231*)

Potential Rivalries

When the revamped budget procedures go into full effect, the House and Senate Budget Committees could find themselves stepping on the sensitive toes of some of the most powerful committees in Congress.

"There's a potential conflict between the Budget Committees and every committee on the hill," Cohn said. With

each congressional committee and subcommittee looking out for federal programs within its jurisdiction, the Budget Committees will encounter resistance when they make recommendations for setting limits on federal budget totals.

For when the Budget Committees recommend how much the federal government should spend in each fiscal year, they inevitably must grapple with budget priorities, making judgments on which federal programs are essential and which should be cut back to fit the over-all budget parameters required by fiscal policy goals.

To be sure, the Budget Committees' main concern will be the budget totals. In reporting budget resolutions to the floor, they will recommend over-all targets for appropriations, spending, revenues and public debt that Congress would aim for in subsequent legislation.

But the budget resolution also will include allocations of appropriations and outlays among the functional categories—defense, health, income security and so forth—followed by the President's budget document. And in their statement on the conference agreement of the initial budget resolution, the conferees representing the Budget Committees would break down the final target figures among congressional committees that would consider legislation providing the funds to be spent within the total and functional category targets.

At the reconciliation stage as well, the Budget Committees could recommend in reporting a second budget resolution that Congress overrule committees whose legislative actions had put total appropriations or spending above the target levels.

"The Budget Committee will actually be performing a function that isn't performed around the Senate now" by forcing senators to look at the totals as well as the separate spending legislation, Muskie insisted. "The Appropriations Committee within itself does that in drawing up separate appropriation bills," he noted, "but there's no public debate about priorities."

Committee Make-Up

In mapping out the Budget Committees' role, Muskie said, "Meticulous care was taken not to intrude on other committees. But there is overlapping, no question about that."

House

In the House, conflicts with other committees could be minimized by the composition of the Budget Committee itself. In creating the House Budget Committee, the budget reform measure allocated the committee's 23 seats to representatives of the majority and minority leadership and to members from each House committee.

Recognizing the budgetary significance of appropriations and revenue legislation, the bill required that five House Budget Committee members also serve on the Appropriations Committee and that five other members come from the tax-writing Ways and Means Committee.

While assuring that the House Budget Committee will include members well versed in appropriations and revenue legislation, that arrangement could serve to perpetuate the predominance of two largely conservative committees on budget-making decisions. As the new Budget Committee's chairman, House Democrats selected Rep. Al Ullman (D

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Ore.), the Ways and Means Committee's second-ranking Democrat.

The bill also required that House Budget Committee membership be rotated, with no member allowed to serve on the committee for more than four years out of every 10. Although rotation will give more House members an opportunity to serve on the committee—and learn budget intricacies—it also could require members to leave the committee before they develop the expertise required for the job.

As a result, the House Budget Committee could be less of an independent force for budgetary restraint than its Senate counterpart, a different breed of committee.

Senate

As a regular Senate committee, the 15-member Muskie panel has a permanent membership, and after 1976 each of its members will be able to serve on only one other major Senate committee. Although Senate Democrats and Republicans both assigned Budget Committee seats to members of the Appropriations and tax-writing Finance Committees, the bill did not require such representation.

With the Senate Budget Committee potentially a major force in Senate budget decisions, "some senior members of the Senate Appropriations Committee are fearful that in time it might eclipse their committee," one House observer noted.

Recognizing that concern, Jacob K. Javits (R N.Y.) Aug. 26 told his Budget Committee colleagues that "under no circumstances should we be considered competitive with or duplicative of the Appropriations Committee. We should make that clear to them."

"The personal relationships between the chairman of the Budget Committee and the chairman of the Appropriations and Finance Committee will be very interesting," Muskie commented in an interview before his designation as chairman.

Political Interests

Yet perhaps the most fundamental obstacle to congressional budget control is the very nature of Congress as a legislative institution representing different areas, groups and needs. Whatever the overriding merits of responsible fiscal policy, Congress and its members also must respond to other imperatives, some selfish and political, others generous and humanitarian.

In jesting fashion, President Ford put his finger on one problem in his Aug. 12 address to a joint session of Congress. Ford, who represented a Grand Rapids, Mich., congressional district for 24 years, made a mock confession to House Speaker Carl Albert, an Oklahoma Democrat, conceding that he had "sometimes voted to spend more taxpayers' money for worthy federal projects in Grand Rapids while vigorously opposing wasteful federal boondoggles in Oklahoma."

Jesting aside, Ford went on to call for continued opposition to "unwarranted cuts in national defense" at the same time he termed federal budget reductions the best weapon against inflation.

"There are a lot of guys who voted for this thing (budget reform) who don't really believe in it," a House staff member observed. "They feel that the substantive programs that they are interested in—for instance on health programs, they act on the premise that the more

dollars they put in, the quicker they'll find a cure for cancer—that that's more important than the orderly management of fiscal affairs."

While contending that the pressure on a member to support federal funds for his district or state was "not really as great as it's made out to be," Cederberg nevertheless noted that "any member who doesn't try to do what he can for his district just doesn't stick around here very long."

Congress may be sincere about budget control, Cohn noted, "but I've worked with presidents and budget directors and secretaries of the Treasury who were sincere but couldn't do anything about it."

"There's always pressure to somehow shove in more money," he went on. "The politics are such that they'd rather be for things than against them."

Outlook

Although the budget control bill will not be fully in effect until fiscal 1977, the Budget Committees want to put the fiscal 1976 budget that President Ford will submit in January 1975 through a trial run of the revised procedures.

As outlined by Muskie in an Aug. 22 memorandum to his committee, the trial run would include an initial budget resolution and scorekeeping procedures to keep track of how subsequent congressional actions match up to the over-all targets. In light of pressures to balance the fiscal 1976 budget, Muskie suggested that the committees might be called on to go through a budget reconciliation as well.

Cederberg sees some danger than in a 1975 trial run "we might get off on a foot where we stub our toes." The budget control effort might be discredited, Cederberg warned, "in that we could come up with an over-all budget total and then realize that the law doesn't mandate that we stick to the total."

When the new procedures go fully into effect, the first test of how serious Congress is about using them could come at the reconciliation stage in September 1976, just before the start of fiscal 1977.

At that point, Cohn suggested, the success of the experiment may depend on by how much the separate congressional spending measures have exceeded the budget resolution targets. "If the difference is small, I wouldn't say it wouldn't work," Cohn said, because "if the amounts are not too large, they could find a gadget or gimmick" to adjust the figures.

"But if they are large, God help us," he warned. In that case, Cohn said, the new procedures "will be forgotten."

The roles played by Muskie and Ullman could be crucial. They may have to fight on the floor against bills that would violate the ceiling targets and against attempts to raise the ceilings at the reconciliation stage.

To be successful, Cohn said, the experiment "needs a commitment on the part of at least the Budget Committee chairmen that they want to stick to it."

"In my experience," he went on, Congress "showed no inclination to carry out such a commitment.... But this is a different period of time; we never had double-digit inflation before."

When it comes down to reconciliation, Cederberg said, "there is only way that you can enforce a ceiling, and that is that Congress is willing to enforce it."

"If the votes are there, the ceiling will be enforced."